that it was not until August 1936 that the defendants succeeded in evicting the sub-tenants. What would have happened if the plaintiffs had paid the defendants, and the latter were unable to deliver up possession of the land, is a contingency with which I am not concerned. The fact remains that the plaintiffs, even now, have not paid the compensation.

Mr. Davies contends that as the defendants were unable to give vacant possession, and remained in possession reaping the profits of the land until August 1935, they cannot be entitled to interest until after that date.

In January 1933 when the umpire made his final award, the Civil Procedure Code was in force; and by section 568 of that Code, every judgment debt carried interest at 8% or such lesser rate as the Court directed, from the date of judgment until the judgment was satisfied.

Since an award on a reference under order of Court is the equivalent of a judgment; it follows that it carries the same interest as a judgment.

As I have already stated, the question whether the defendants were or were not able to give possession does not arise in this summons.

The only questions are: (1) whether the Judgment of the 20th November, 1931, and the award carries interest? (2) if so, at what rate, and (3) whether or not the interest should run from the date of the Judgment or from the dates of the respective awards.

Mr. Goho has referred to the case of *Ashover Fluor Spar Mines, Limited* v. *Jackson* [(1911) 2 Ch. 355] in which the facts were very similar to those in the present suit.

In that case, an action for trespass was compromised on terms that it should be referred to a special referee to ascertain the damages. There, however, the matter was referred to the referee for report only; and a further order was necessary for the Court to adopt the report. It was held that interest on the sum certified ran from the date of the referee's report.

Applying the same principles to the present case although the "Judgment" of 20th November, 1931, is so called; in my view, it could more properly be described as an order for reference for trial, containing ancillary orders depending on the result. In fact, the Judgment was inchoate, and awaited the report of the arbitrators or umpire to perfect it.

I therefore hold that the Judgment itself does not carry interest; but the award of the umpire, being the equivalent to a Judgment, does carry interest.

I find that interest is payable from the date of the last award of the umpire, viz. from 5th January, 1933, and since no reduction in the statutory rate of inte est has been asked for, the rate will be 8 per cent per annum until the amount of compensation is paid.

With regard to prayer 2, as the result of my ruling on prayer 2A, the order on prayer 2 will be in the terms thereof but varied by the insertion, after the figure "$4,019.20" of the words, "together with interest at the rate of 8% per annum from the 5th January 1933 till date of payment."

With regard to costs of this summons, the defendants having succeeded, the plaintiffs must pay the defendants' costs. Liberty to apply.

Solicitors for the Plaintiffs—*Aubrey Davies & Co.*

Solicitors for the Defendants—*S. C. Goho & Co.*

[APPELLATE CRIMINAL JURISDICTION]

HORNE, J.

April 24, 1937.

S. R. SALMON ..... **Appellant**

v.

REX ..... **Respondent.**

[SINGAPORE MAGISTRATE'S APPEAL No. 43 of 1936]

Traction Engines and Motor Cars Ordinance (Cap. 214), s. 16—Power to make rules—Rule 4—Reasonableness—Certainty—Implied repeal by Regulation 25 made under the Traffic Regulation Ordinance (Cap. 213)—Cross Roads—Statutory naming of streets—Convictions against the weight of the evidence.

Prinsep Street, Singapore, continues from Middle Road to Bras Basah Road. Shortly before it enters Bras Basah Road, Selegie Road comes into it at an angle and Dhoby Ghaut leaves it (on the same side) at an angle. At the time of the matters complained of the appellant and an Inspector of the S.S. Police were driving their respective cars towards the junction of Prinsep Street and was making for Dhoby Ghaut. The Inspector in question was coming along Selegie Road and making for Bras Basah Road viâ Prinsep Street. By reason of their positions the two cars were bound eventually to cross each other's respective courses. Shortly after the drivers saw each other both cars stopped, but there was a conflict as to their then exact positions. There was no accident, but the appellant was charged with:—(1) That he on or about the 25th day of February 1936 at 7-30 p.m. at Prinsep Street junction with Selegie Road while driving motor car No. S-3485, did fail to slow down when approaching the cross road to a speed which was reasonable with regard to the traffic likely to be encountered on such cross road and that he thereby committed an offence under Rule 4, Section 16 Ordinance 129 [now the Traction Engines and Motor Cars Ordinance (Cap. 214)] and (2) That he on the 25th day of February 1936 at 7-30 p.m. on the same occasion failed to drive the said motor car on that part of a public road or street situate between the centre and the left hand kerb, and that he thereby committed an offence under Rule 8 made under Section 3 Ordinance 19 of 1933 [now the Traffic Regulation Ordinance (Cap. 213)].

Prior to the actual hearing of the appeal the appellant filed a motion asking for leave to raise legal points which had not been raised in the Court below and for

leave to read two affidavits, one by himself as to what took place at the trial, and the other by a deponent who had made an accurate site plan a copy of which was exhibited thereto. This motion was granted and when the appeal came on for hearing it was stated by Counsel for the Crown that if the conviction on the first charge was upheld there must be an acquittal on the second charge.

Held (1) That the convictions on both charges must be set aside on the merits.

(2) That Rule 4 (as amended in 1917) made under the Traction Engines and Motor Cars Ordinance, 1911, was valid.

(3) That the said rule had not been impliedly repealed by Regulation 25 made under the Traffic Regulation Ordinance.

(4) That whether intersecting roads are cross-roads or not, cannot be determined by ascertaining the names applied thereto under the authority of s. 109 of the Municipal Ordinance (Cap. 133).

MAGISTRATE'S APPEAL.

This was an appeal against the conviction by the Police Magistrate of one Dr. S. R. Salmon for the offences set out in the above head-note. The substantive appeal was heard before Horne, J. on the 20th April 1937 when judgment was reserved.

Judgment was delivered on the 24th April 1937 allowing the appeal. The facts and arguments sufficiently appear from the judgment.

Walters for the Appellant.

Howe, Crown Counsel for the Crown.

HORNE, J.—The appellant was on the 25th July last convicted and fined $10 on each of two charges brought against him in respect of infringement of the Traffic Regulations on the 25th February.

The first charge was that he failed to slow down to a reasonable speed at a cross road and was brought under Rule 4 made under section 16 of Cap. 214. The second was that he failed to drive his car on that portion of the public street between the centre of the street and the left hand kerb and was brought under Regulation 8 of the Regulations made under Cap. 213.

It is sufficient to note without any comment that it took five months to bring this matter to a conviction.

The grounds of appeal are set out at extreme and unnecessary length and contain much that cannot be described as grounds of appeal at all, being mainly argument. They may be summarised by saying (a) that the conviction is against the weight of evidence, (b) that whether the evidence supports the conviction or not the conviction under rule 4 ought not to stand because rule 4 is (i) an unreasonable bye-law, and (ii) has been impliedly repealed by Regulation 25 of the Regulations made under Cap. 213.

There is no attack upon Regulation 8 but in view of the facts of the case it is conceded that if an offence has been committed under rule 4 then no offence was committed under Regulation 8.

It is advisable to deal with the ground of appeal relating to Rule 4 before dealing with other grounds.

Rule 4 was made in 1917 and so far as is material is in these terms:—"When approaching turnings or cross roads.....the driver of any motor car.....shall slow down to a speed which shall be reasonable having regard to the traffic likely to be encountered at such cross road or turning and he shall sound the horn.....and when and before turning across traffic to the right the driver shall slow down and project his arm horizontally so that his intention may be seen by oncoming traffic." (Vol. Subs. Leg. 1917-20 p. 162).

The argument as to unreasonableness was based on an earlier form of this rule which did not contain the words "to a speed which shall be reasonable etc." and that argument is that the rule is expressed in too general terms, that no provision is made to drive at a speed greater than that which can be described as slow if the circumstances demanded it. In my opinion the rule even in its older form could not be described as unreasonable. It merely demands that the normal caution of the ordinary driver shall be exercised when approaching a turning or a cross road. The rule which was found to be unreasonable in *R.* v. *Broad*, 1915 A.C. 1110, compelled every person driving a vehicle to stop when approaching a level crossing and then to proceed over the level crossing at a walking pace, and that at a place where there might be only one train a day. That case has no application here.

I hold that rule 4 is reasonable and is unambiguous.

Then it is said that the rule is impliedly repealed by Regulation 25, because in that regulation the enacting authority is dealing with the same subject matter under a different grant of power, which latter grant gives them the right to affix to a contravention the penalty of imprisonment, while the earlier allows them only to affix the penalty of fine. In fact no advantage of this power has been taken and by the Regulations of 1933 fine is imposed. But the short answer to the appellant's contention as to implied repeal is that Regulation 25 imposes an additional duty upon drivers approaching cross roads (intersections and junctions) that of filtering into a certain position according to whether they desire to turn left or right, and is therefore not dealing with the same subject matter over again as that dealt with in rule 4 of the earlier Rules.

Smith v. *Benabo*, 156 L.T. 194, has no application therefore to this matter, for rule 25 does not describe an offence created by the earlier rule 4.

A subsidiary submission is made for the appellant, viz. that the place where the offence is alleged to have occurred is not a cross-road at

all. In other words Rule 4 can only be applied where a road named A crosses a road named B. The physical configuration cannot however be restricted by the names given to the streets by the Municipality. It is quite possible to have a cross-road and four different street or road names at the place where two roads cross each other. Nor can it be said that in ordinary language the adjective "cross" is limited in its ordinary meaning to cross at right angles, though the noun is definitely associated in many minds with something rectangular. Therefore giving the word "cross-road" its literal meaning it is applicable to the oblique crossing formed by the junction of Dhoby Ghaut with Selegie Road and Prinsep Street. In the *Mayor of New Plymouth* v. *Taranaki Board*, 1933 A.C. 680, the question was whether "an adjoining district" included one whose boundaries were nowhere conterminous with it, and it was held that the literal meaning of "adjoining" was to be taken unless the context showed that the word was not to be used in its exact and literal sense. But even were the literal meaning of cross-road otherwise than I have stated, then nevertheless, the context in which it is used would, in my view, shew that it is not restricted to a rectangular crossing.

The appeal, therefore, on the grounds hitherto discussed fails and I turn to a consideration of the merits of the case. I have the advantage of the additional evidence in the form of an accurate scale plan of the *locus in quo* which was not before the Magistrate who dealt with these charges. The Magistrate had the plan marked "B" before him and it shows two red lines, which are supposed to be the skid marks relied upon as proof of a speed in excess of what was reasonable. Mr. Such says that he measured them about half an hour later than the incident in question, the alleged contravention of the rule. The red lines purport to show that the car skidded but I think they can be no more than representing the alleged track of the car. If they are meant to represent that the car travelled approximately 50 feet with the wheels locked, then that does not seem possible. But if any reliance can be placed on these marks at all, then, as they purport, on plan B, to be measured from the line joining the corner of Kirk Terrace-Selegie Road and the corner of Prinsep Street by the latrine, they would tend to show that the appellant had at no time passed to the right of the centre line of Prinsep Street which is 50 ft. 2 ins. wide. Even on plan B as evidence there should have been no conviction on the second charge.

Mr. Such's evidence also is that he saw the car on the wrong side of the lower portion of Prinsep Street; yet the measurements of the tyres or skid marks on Mr. Such's own plan put the appellant's car on his proper side. He also shows on his plan the position of the two cars when stopped. He puts the appellant's pointing towards Dhoby Ghaut at a point on a line drawn at right angles from Prinsep Street left hand side (appellant's) and meeting the angle formed by Kirk Terrace and Selegie Road. The position of the appellant's car is approximately when plotted on the scale plan 80 or 90 feet away from the point where it would emerge from Prinsep Street (lower section) and where Mr. Such could first observe it. He says he was only going 15 miles an hour and the appellant was going 35/40 miles per hour, at least double his speed. Yet he says the "synchronized movements of cars brought my car directly in front of (appellant's car)' But if Mr. Such's estimate of the appellant's speed is correct, Mr. Such could not possibly pass in front of him. Mr. Such must have accelerated very hard to have been able to pass in front of a car coming at 35 miles per hour on an oblique course to his own and it seems to me that Mr. Such's sudden acceleration caused the appellant to apply his brakes. It is simply a case of two drivers both approaching a cross road at approximately the same speed and neither having any more right to proceed than the other, one thinking he can avoid a collision by accelerating and the other by braking and each of them travelling at approximately the same speed.

Another point for comment is this . Mr. Such was asked in cross-examinatiion "where did your car actually come to a stop?" A. "As in my plan." Then on being pressed further he says "my car stopped 30 feet from the latrine end and appellant's car 20 feet." Yet on the plan he puts the cars 80 to 90 feet from that point.

What Mr. Such calls the skid-marks are called tyre marks by the police constable who measured them at about 8.20, much more than half an hour after the incident. There is no evidence to say what amount of traffic is likely to pass that spot except a general statement that it is a busy and dangerous corner; nor, beyond the general description skid or tyre, is there anything definitely to link the measured marks to the appellant's car. Mr. Such has assumed them to be marks caused by the skidding of appellant's car or marks caused by that car being braked at high speed. That is the only evidence, apart from Mr. Such who is certainly not reliable, of speed.

Further having the two charges before him the Magistrate is somewhat confused by accepting plan B which though sworn to as correct by Mr. Such, is at the most only his own approximate measurements, and, being made for the purpose of the case, much greater accuracy was desirable. From plan "B" the Magistrate bases

his opinion that the appellant ought to have kept to an outward curve to the left. But when the respective positions, as alleged by Mr. Such, of the cars and the tyre marks (assuming them even to be the appellant's which is not proved) are plotted on an accurate plan it is seen that the appellant did keep to the left of the centre line of the track made by Dhoby Ghaut and Prinsep Street towards Middle Road.

In my opinion, therefore, the evidence does not support the conviction on the rule 4 charge and I allow the appeal and quash both convictions and order fines to be returned.

Appeal allowed.

END OF STRAITS SETTLEMENTS OFFICIAL REPORTS.